

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	06-00260-01/02-CR-W-ODS
PORFIRIO ALMEIDA-PEREZ,)	
and)	
JOSE ALMEIDA-PEREZ,)	
)	
Defendants.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on December 27, 2006. Defendant Porfirio Almeida-Perez appeared in person and with retained counsel Henri Watson. Defendant Jose Almeida-Perez appeared in person and with appointed counsel John Lozano. The United States of America appeared by Assistant United States Attorney Jess Michaelson appearing for Rudy Rhodes.

I. BACKGROUND

On August 8, 2006, an indictment was returned charging both defendants with possession of firearms while in the United States illegally, in violation of 18 U.S.C. §§ 922(g)(5)(A) and 924(a)(2).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Michaelson announced that AUSA Rudy Rhodes will be the trial counsel for the government. The case agent to be seated at counsel table is Special Agent Timothy Cannon, ATF.

Mr. Watson announced that he will be the trial counsel for defendant Porfirio Almeida-Perez.

Mr. Lozano announced that he will be the trial counsel for defendant Jose Almeida-Perez.

III. OUTSTANDING MOTIONS

There are two pending motions to suppress evidence, document numbers 31 and 32. The Report and Recommendation to deny the motions was filed on December 13, 2006 (document number 62). The objections to the Report and Recommendation were due on December 26, 2006.

IV. TRIAL WITNESSES

Mr. Michaelson announced that the government intends to call 8 witnesses without stipulations or 6 witnesses with stipulations during the trial.

Mr. Watson announced that defendant Porfirio Almeida-Perez intends to call 1 witness during the trial. The defendant may testify.

Mr. Lozano announced that defendant Jose Almeida-Perez intends to call 1 witness during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Mr. Michaelson announced that the government will offer approximately 20 exhibits in evidence during the trial.

Mr. Watson announced that defendant Porfirio Almeida-Perez will offer approximately 5 exhibits in evidence during the trial.

Mr. Lozano announced that defendant Jose Almeida-Perez will offer approximately 5 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Watson announced that defendant Porfirio Almeida-Perez will rely on the defense of general denial.

Mr. Lozano announced that defendant Jose Almeida-Perez will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Watson stated this case is probably not for trial.

Mr. Lozano stated this case is probably not for trial.

VIII. STIPULATIONS

Stipulations are likely as to interstate nexus of firearm.

IX. TRIAL TIME

Counsel were in agreement that this case will take 2 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed August 28, 2006, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by or before December 27, 2006;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, January 3, 2007;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, January 3, 2007. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on January 8, 2007. However, this case will not be tried on this docket. The parties have reached a plea agreement and are scheduling a change of plea hearing. **A Spanish-speaking interpreter is required.**

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
December 29, 2006

cc: The Honorable Ortrie Smith
 Mr. Rudy Rhodes
 Mr. Henri Watson
 Mr. John Lozano
 Mr. Jeff Burkholder